38

COMMITTEE ON PETITIONS

(FOURTEENTH LOK SABHA)

THIRTY EIGHTH REPORT

MINISTRY OF AGRICULTURE
(DEPARTMENT OF AGRICULTURAL RESEARCH & EDUCATION)
MINISTRY OF RAILWAYS

LOK SABHA SECRETARIAT
NEW DELHI

March, 2008/*Phalguna*, 1929 *(Saka)*

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(*Presented to Lok Sabha on* 19.03.2008)

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CONTENTS

		Pages
Composition of the Committee on Petitions		(iii)
I.	Introduction	(v)
II.	Report	
	(i) Representation complaining about irregularities in service conditions of employees working in Directorate of Rice Research, Hyderabad.	1
	(ii) Representations regarding system of procurement of 'Rails' by Indian Railways.	26
	III. Annexures	
	a. Minutes of the 23rd sitting of the Committee held on 12.09.2005.	36
	b. Minutes of the 72nd sitting of the Committee held on 18.12.2007.	38
	c. Minutes of the 79th sitting of the Committee held on 18.03.2008.	41

COMPOSITION OF THE COMMITTEE ON PETITIONS

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THIRTY EIGHTH REPORT OF THE COMMITTEE ON PETITIONS
(FOURTEENTH LOK SABHA)

INTRODUCTION

I, the Chairman, Committee on Petitions, having been authorized by the Committee to present the Report on their behalf, present this Thirty Eighth Report of the Committee to the House on the following matters:—

(i) Representation complaining about irregularities in service conditions of employees working in Directorate of Rice Research, Hyderabad.

(ii) Representation regarding system of procurement of 'Rails' by Indian Railways.

2. The Committee considered and adopted the draft Thirty Eighth Report at their sitting held on 18th March, 2008.

3. The Observations/Recommendations of the Committee on the above petition have been included in the Report.

NEW DELHI;
18*th March*, 2008
28 *Phalguna*, 1929 *(Saka)*

PRABHUNATH SINGH,
Chairman,
Committee on Petitions.

CHAPTER I

REPRESENTATION COMPLAINING ABOUT IRREGULARITIES IN SERVICE CONDITIONS OF EMPLOYEES WORKING IN DIRECTORATE OF RICE RESEARCH, HYDERABAD

The Committee received representations from the following employees working in Directorate of Rice Research (DRR), Hyderabad complaining about irregularities in their service conditions by DRR, Hyderabad:—

(i) Dr. K. Muralidharan, Principal Scientist and Head Crop Protection, DRR, Hyderabad.

(ii) Shri Aldas Janaiah, Scientist—SS, (Ag. Econimics), DRR, Hyderabad.

(iii) Dr. I.C. Pasalu, Principal Scientist, DRR, Hyderabad.

(iv) Dr. A.G.K. Murthy, Principal Scientist, DRR, Hyderabad.

(v) Dr. G. S.V. Prasad,Technical Officer, DRR, Hyderabad.

(vi) Ms. Aparna Das, Personal Assistant, Crop Protection, DRR, Hyderabad.

(vii) Shri B. Narasimha Reddy, Technical Assistant, TII-3, DRR, Hyderabad.

(viii) Shri P. Adhi Sesha Rao, Technical Assistant, TII-3, DRR, Hyderabad.

1.2 The Committee took up the representations under reference for examination under Direction 95 of the Directions by the Speaker.

1.3 The representations were forwarded to the Ministry of Agriculture [Department of Agricultural Research and Education (DARE)] for furnishing their comments. The Committee after receiving the comments of the Ministry of Agriculture (DARE) took oral evidence of the representatives of the Ministry of Agriculture (DARE) at the sitting held on 12th September, 2005. The Committee also held discussion with the petitioners, officials of the Ministry of Agriculture and the representatives of the Directorate of Rice Research (DRR), during the on-the-spot study visit of the Committee to Hyderabad.

1.4 The Committee dealt with the representations of each petitioner as stated above in the succeeding paragraphs.

1.5.0 Representation from Dr. K. Muralidharan, Principal Scientist and Head, Crop Protection, DRR, Hyderabad

1.5.1 Dr. K. Muralidharan, Principal Scientist and Head Crop Protection, DRR, stated in his representation dated 25.1.2005 that he is the senior most Principal Scientist at Directorate of Rice Research, Hyderabad. Suddenly his seniority was changed in favour of his junior Dr. S.V. Subbaiah by Dr. B. Mishra, Project Director, DRR. He tried to seek justice by giving details to Secretary, ICAR, but the Secretary, ICAR did not give any reply.

1.5.2 The representation was forwarded to the Ministry of Agriculture (DARE) for furnishing their comments on the points raised therein. In response thereof, the Ministry of Agriculture (DARE) *vide* their communication dated 19 April, 2005 furnished the following comments:—

> "Dr. Muralidharan had submitted a representation that his seniority with specific reference to one Dr. S.V. Subbaiah has been improperly reflected by the Directorate. His representation was forwarded to the ICAR headquarters and the same was considered and clarified by the Council headquarters endorsing the correct position and confirming that the action of the DRR in reflecting the seniority of Dr. Muralidharan is in order and has been done as per the instructions on this issue.
>
> It is further clarified that though there is no concept of *inter-se* seniority of the Scientists of the Agricultural Research Service (ARS), some guidelines for officiating arrangements have been formulated with the approval of the Competent Authority for operational convenience. These instructions have been given wide circulation for information of all concerned. The crux of the issue is that the date of placement of a Scientist in the particular grade is the crucial date for reckoning irrespective of the mode *i.e.* by direct recruitment or by way of placement as per provisions of the Career Advancement Scheme (CAS). It has been further amplified in the guidelines that in case two Scientists have the same date of appointment to a particular grade the older will be considered senior.
>
> In the instant issue, Dr. Subbaiah was originally from the technical services and on fulfilment of certain conditions was inducted in the ARS and was subsequently granted promotion/placement in the higher scale as per the then applicable provisions of the Career Advancement Scheme. The placement of Dr. Muralidharan as well as Dr. Subbaiah in the erstwhile S-3 grade has been made with effect from the same date *i.e.* from 01.07.1982 and therefore, since Dr. Subbaiah is older then Dr. Muralidharan, the DRR has reflected the seniority as per the above-mentioned clause. At this stage, the fact that Dr. Subbaiah was originally holding a class-I post in the technical stream whereas Dr. Muralidharan was in the scientific stream *w.e.f.* 1.10.1975 *i.e* the date of the constitution of ARS is not at all relevant and thus the contention of Dr. Muralidharan is not tenable.
>
> In the light of these facts it will be seen that the contention of Dr. Muralidharan cannot be acceded to as per rules and in spite of repeated clarifications, he is magnifying a routine administrative decision as a *mala fide* and biased act."

1.5.3 After perusal of the comments, as furnished by the Ministry Dr. M. Jagannath, MP who had forwarded the representation in his subsequent representations dated 8.7.2005 further submitted on behalf of the petitioner that:—

> "The reply from ICAR/MOA attempts to confuse ARS rules with Career Advancement Rules that came later and which were never applied to

Dr. Muralidharan or Dr. S.V. Subbaiah who were already in S-3 cadre. The Ministry have also correctly stated that the placement of Dr. Muralidharan as well as Dr. Subbaiah in the erstwhile S-3 grade has been made with effect from the same date *i.e.* from 01.7.1982. This antedation promotion is not covered by Career Advancement Scheme but is covered by ARS Rules. If two scientists are placed in S-3, the seniority is to be decided by seeing the assessment promotion dates of the earlier positions in S-2, S-1 and so on till their date of joining and if all are promoted on same date then only age of the Scientists will be considered to fix the seniority. Therefore, in the statement that, "since Dr. Subbaiah is older DRR has reflected the seniority which is apparently baseless and whimsical. This expresses intentions to deny Dr. Muralidharan his rightful seniority. An executive summary given below will demonstrate this:

- Dr. Subbaiah was initially inducted into Technical Service as Technical Assistant T6 (*w.e.f.* 1-1-77), *vide* AICRIP Office order No. 167/77-78 dated 23-1-1978.

- Later, Dr. Subbaiah was inducted into Scientific Service as Scientist S-1 on 22-7-1978 (retrospectively *w.e.f.* 1-10-75), *vide* AICRIP Office No. F. 12-26/ Per.1 dated 27-7-1978.

- Dr. Subbaiah was not found suitable in assessment interviews of 1981 and 1982 for promotion, when he faced ASRB on the first two occasions. Dr. Subbaiah was probably denied promotion as he had worked as Scientist S1 only from 27-7-1978. The induction could provide only monetary benefits to Dr. Subbaiah with retrospective effect, but can not recognize work rendered in Technical Service as Scientific Service. He could not go back in time and perform research tasks.

- Dr. Subbaiah was definitely in Technical Service prior to 1-10-1975 *i.e.* on or before 30-9-1975 after selection as Farm Manager through employment exchange and interview at the Central Rice Research Institute, Cuttack. But, Dr. Muralidharan and Dr. I.C. Pasalu were respectively, Junior Plant Pathologist and Junior Entomologist, in the ICAR Scientific Service prior to 1-10-1975 *i.e.* on or before 30-9-1975 as much as the petitioners were Directly Recruited by ASRB. Notwithstanding the same, Project Director's whimsical order made such a junior as the senior most by ignoring Dr. Muralidharan and Dr. I.C. Pasalu.

- It is apparent that the earlier Project Director and ICAR apparently considered all this and issued letter/antedation orders indicating Dr. K. Muralidharan's name ahead of Dr. S.V. Subbaiah. Further, he had functioned as senior to Dr. Subbaiah in holding charges as Director during the period of leave of Dr. Muralidharan's seniors until the issuance of Office Order F.No. 3-61/Admn/ 01-02 dated 18-04-2001.

- Needless to say that the Project Director (Dr. B. Mishra) in all probability abused the powers vested in him as PD. It is unfortunate that ICAR did not respond to Dr. Muralidharan's representations."

1.5.4 He has, therefore, requested the Committee for detailed investigations by taking service books and other relevant documents available at DRR, including the contributions made by the petitioners and Dr. Mishra (PD), DRR which can help identify the motive for such anomalies and settle the issues justifiably.

1.5.5 As regard induction of Dr. Subbaiah from Technical Service (As Technical Assistant *w.e.f.* 1.1.1977) into scientific service as scientist S-1 on 27.7.1978, the Ministry of Agriculture in their written replies dated 29th December, 2006 submitted that:—

> "It is not factually correct that Dr. Subbaiah has been placed as Scientist (S-1) from 27.7.1978. Dr. Muralidharan and Dr. Subbaiah had initially joined service in the then scale of Rs. 700—1300 *w.e.f.* 8.9.1975 and 11.8.1975 respectively. Prior to 1.10.1975 there was no Agricultural Research Service or Technical Service in the ICAR system. On constitution of the Agricultural Research Service Rules *w.e.f.* 1.10.1975, the Council's employees as on 1.10.1975 holding the scales of pay ranging from Rs. 425—700 to Rs. 2000—2500 who acquired the minimum qualifications prescribed within a period of five years from the date of introduction of service were to be considered for induction with effect from the date of their acquiring the prescribed qualification in the manner as specified in the ARS rules. Dr. Subbaiah is one such inductee in the ARS and with effect from the constitution of ARS, both of them have been inducted and are at par in the scale of Rs. 700—1300 *i.e.* the erstwhile S-1 grade of ARS."

1.5.6 To a query as to how Dr. Subbaiah gained seniority over the petitioner when he was not found suitable in assessment interviews of 1981 and 1982 for promotion, the Ministry *vide* their written replies dated 29th December, 2006 submitted as follows:—

> "As per the provisions of the Agricultural Research Service Rules, Dr. Subbaiah was assessed for promotion to the next higher grade of S-3 after completion of five years of service in grade S-2. He was not recommended for promotion on both the occasions by the Assessment Committee of Agricultural Scientist's Recruitment Board from the due date.
>
> Subsequently, on the representations of Scientists who were earlier assessed for the period ending 31.12.1980, 31.12.1981 and 31.12.1982 and not recommended for promotion a general policy decision was taken to review the assessment results of all such Scientists *vide* circular No. 8-14/85-Per. IV dated 25th July, 1985. Accordingly, the case of Dr. Subbaiah was reassessed as per the mechanism laid down in the above-mentioned circular and the Assessment Committee of ASRB recommended his promotion to the grade of Scientist (S-3) *w.e.f.* 1.7.1982. The above decision was taken with the approval of the controlling authority of the service *i.e.* President, ICAR Society and Union Agriculture Minister."

1.5.7 When asked about the criteria followed for promotion of scientists in the absence of the concept of *inter-se* seniority of the Scientists of Agricultural Research

Science, the Ministry *vide* their written reply submitted that:—

> "The Agricultural Research Service was designed to replace the 'post centered' system by a 'scientist centered' system. The spirit behind the concept of no *inter-se* seniority amongst the Scientists was that professional colleagues need not view each other a potential rivals for occupying a slot in a higher salary scale. Every Scientist should be a leader in his own project/discipline and any placement in the higher scale would not necessitate that the Scientist has to give up his on-going project and start a new project in the same or in a different location. In the absence of *inter-se* seniority the Scientist are placed in the higher scale as per the applicable provisions of the Career Advancement Scheme. They are also eligible for lateral entry on direct recruitment basis for positions in higher scales."

1.5.8 While furnishing the latest status of the case, the Ministry *vide* their subsequent written note dated 27th August, 2007 submitted as follows:—

> "As per our amended guidelines Dr. Muralidharan shall now hold the officiating charge of the Project Director, DRR, Hyderabad as and when the regular incumbent proceeds on leave or on tour etc. formal orders in this regard have been issued by DRR."

OBSERVATIONS/RECOMMENDATIONS

1.5.9 Dr. K. Muralidharan, Principal Scientist and Head, Crop Protection, in the Directorate of Rice Research (DRR), Hyderabad in his representation has submitted that his seniority was changed in favour of his junior Dr. S.V. Subbaiah.

1.5.10 In response, the Ministry of Agriculture [Department of Agricultural Research & Education (DARE)] with whom the matter was taken up submitted that Dr. Subbaiah was originally from the technical service and on fulfilment of certain conditions was inducted in the Agricultural Research Service (ARS) and was subsequently granted promotion/placement in the higher scale as per the then applicable provisions of the Career Advancement Scheme (CAS). The placement of Dr. Muralidharan as well as Dr. Subbaiah in the erstwhile S-3 grade has been made with effect from the same date *i.e.* from 1.7.1982 and therefore since Dr. Subbaiah is older to Dr. Muralidharan, the DRR has reflected the seniority as per the above mentioned clause. Thus, the fact that Dr. Subbaiah was originally holding a class-I post in the technical stream whereas Dr. Muralidharan was in the scientific stream *w.e.f.* 1.10.1975 *i.e.* the date of the constitution of ARS, is not at all relevant.

1.5.11 The Committee however, note from the further submissions made by the petitioner that Dr. Subbaiah was initially inducted into Technical Service as Technical Assistant T6, *w.e.f.* 1.1.1977, later he was included into Scientific Service as Scientist S-1 on 22.7.1978 (retrospectively *w.e.f.* 1.10.1975). The Committee are surprised to note that as per the provisions of the ARS Rules, Dr. Subbaiah was assessed for promotion to the next higher grade of S-3 after completion of five years of service in grade S-2. He was not recommended for promotion on both the occassions by the Assessment Committee of Agricultural Scientist's Recruitment Board from the due date. The Committee while, agreeing with the submission made

by the petitioner are also of view that, induction of Dr. Subbaiah in Scientific Service with retrospective effect cannot recognize work rendered by him in Technical Service as Scientific Service. Whereas, Dr. Muralidharan and Dr. I.C. Pasalu were respectively working as Junior Plant pathologist and Junior Entomologist, in the ICAR Scientific Service prior to 1.10.1975. The were directly recruited by ASRB and Dr. K. Muralidharan had also functioned as senior to Dr. Subbaiah in holding charges as Director during the period of leave of Dr. Muralidharan's seniors.

1.5.12 Refuting the petitioner's submissions, the Ministry further submitted that Dr. Muralidharan and Dr. Subbaiah had initially joined service in the then scale of Rs. 700—1300 *w.e.f.* 8.9.1975 and 11.8.1975 respectively. Prior to 1.10.1975 there was no Agricultural Research Service (ARS) or Technical Service in ICAR system. On constitution of ARS Rules *w.e.f.* 1.10.1975 the council employees as on 1.10.1975 holding the scales of pay ranging from Rs. 425—700 to Rs. 2000—2500 who acquired the minimum qualifications were considered for induction *w.e.f.* the date of their acquiring the prescribed qualification specified in the ARS rules. Dr. Subbaiah was one such inducted in the ARS and with effect from the constitution of ARS, both of them were inducted and were at par in the scale of Rs. 700—1300 *i.e.* the erstwhile S-1 grade of ARS.

1.5.13 The Committee further note that, after receiving the representations of scientists who were earlier assessed for the period ending 31.12.1980, 31.12.1982 and not recommended for promotion a general policy decision was taken to review the assessment results of all such scientists *vide* circular dated 25th July, 1985 and accordingly, the case of Dr. Subbaiah was reassessed as per the mechanism laid down in the said circular and the assessment committee of ASRB recommended his promotion to the grade of scientist (S-3) *w.e.f.* 1.7.1982.

1.5.14 The Committee are, therefore, of the considered view that Dr. Subbaiah was not recommended for promotion to the next higher grade of S-3 twice in 1981 and 1982 by the Assessment Committee of Agricultural Scientist's Recruitment Board, and the past experience in the relevant field which is crucial for efficient discharge of higher responsibilities and such other factors should be given due weightage while determining the seniority of a person instead of listing him Junior merely on the grounds of his Date of Birth. The Committee would, therefore, like to recommend that the DRR institute should evolve a procedure accordingly within a fixed time frame so, as to decide seniority of equally placed persons.

1.5.15 The Committee note with satisfaction that as per the amended guidelines Dr. Muralidharan shall now hold the officiating charge of the Project Director, DRR, Hyderabad as and when the regular incumbent proceeds on leave or tour etc. thus partially redressing his grievances.

1.6.0 Dr. Aldas Janaiah, Scientist-SS (Ag. Economics), DRR, Hyderabad

1.6.1 Dr. Aldas Janaiah in his representation dated 1st February, 2005 submitted that, the Project Director (Dr. B. Mishra) of the directorate of Rice Research, Hyderabad (ICAR Institution) has stopped his promotion twice despite expert's recommendation.

He had brought this injustice to the notice of ICAR and Hon'ble Minister of Agricultural through his official representation dated 11th November, 2004 (awaiting for response). He has, therefore, requested to review the whole promotion case by an autonomous body such as Agricultural Scientists Recruitment Board or UPSC without any involvement of DRR or ICAR officials and do the justice.

1.6.2 The matter was referred to the Ministry of Agriculture for furnishing their comments. In response, the Ministry of Agriculture (DARE) submitted that:—

> "The placement of Dr. Janaiah to the next higher grade of Senior Scientist was considered as per rules by the formally constituted Selection Committee as per the provisions of Career Advancement Scheme (CAS) for ARS Scientists. There are specific parameters and well-defined criteria for placing Scientists to the next higher grade. For placement in the next higher grade any Scientist, *inter-alia* should posses consistently good performance report as evidenced from the Annual Confidential Reports. The Committee considered the case of Dr. Janaiah as per rules and since two of his ACRs were graded as 'Average', he could not be recommended for placement to the next higher grade. It is further clarified that these Average grading were not given by the present incumbent against whom Dr. Janaiah is alleging *malafides* and *bias*.
>
> It will not be out of place to mention that there is an in-built provision in the CAS that every Scientist shall be assessed after one year from the date he was denied promotion till such time that he is placed in the next higher grade and there is no provision for any review of the assessment recommendations."

1.6.3 The comments as furnished by the Ministry of Agriculture were forwarded to the petitioner for information. In response, a further representation was received from Dr. M. Jagannath, MP, wherein it was stated that:—

> "Reply from ICAR/MOA is confusing from the fact as per the Clause 2.3 of CAS Rules of 1996 for ICAR Scientists, the following clear criteria has been laid down in order of its importance for promotion to the Senior Scientist grade:—
>
> (a) Self-assessment reports (Part A of Annual Assessment Reports submitted every year).
>
> (b) Experts reports/recommendation evidence from publications/research work.
>
> (c) Participation at Conferences/Seminars/Workshops.
>
> (d) Consistently good performance.
>
> Criterion (d) Consistently good performance rating, to be assigned by the reporting officer/reviewing officer (this is subjective judgment) is supposed to be based on the above three measurable indicators, (a) to (c). As evident from Dr. Janaiah's CV submitted to the Hon'ble Union Minister of Agriculture along with his representation dated 11th November, 2004, Dr. Janaiah has published about 20 research papers, and participated at about 17 Conferences/Seminars/ Workshops during the assessment period (August, 1991-August, 2001). In this context, is Dr. Janaiah's performance during the assessment period inferior to those two other scientists (Mr. P. Muthuraman and Mrs. G. Padmavathi)—who

have only 2 or 3 research publications and were promoted-in-terms of above three criteria, (a) to (c).

In the reply from ICAR/MOA it is also stated that, "average rating was given to Dr. Janaiah for two years" (out of nine years of assessment period, *i.e.* from August, 1991-August, 2000).

It is also indicated that the present incumbent (Dr. B. Mishra) has not given these average ratings for two years—as Dr. Janaiah never worked under Dr. B. Mishra during the assessment period. Under this situation, why Dr. B. Mishra was included in the Selection Committee as a member—even second time when it was re-assessed in May 2004?

It is also indicated "there is no provision for review of the Selection Committee recommendations as per the present CAS rules". This is totally incorrect from the fact that Dr. Janaiah's case was once re-assessed as per the ICAR's directive due to anomaly occurred in October, 2002 Selection Committee.

The petitioner (Dr. Aldas Janaiah) has therefore raised four core issues, which were not replied by ICAR/MOA:—

(i) His assessment—which is due from August, 2000 was not done until October, 2002 although some of his juniors (Dr. C.H.M. Vijaya Kumar—who was also on deputation like Dr. Janaiah at the time of assessment, Dr. M.S. Ramesh, and Dr. K. Surekha) were assessed and promoted to Senior Scientist Cadre (some time in April 2002).

(ii) Dr. Janaiah in his representation dated 11th November, 2004 submitted to the Hon'ble Union Minister of Agriculture—that present PD (Dr. B. Mishra) has forced/pleaded the experts "for non-recommendation of his promotion". Finally, Dr. B. Mishra managed to get assessment "postponed" because of his non-recommendation, but ICAR higher authorities directed Dr. Mishra for "re-assessment". This further implies that "there is an in-built provision under present Career Advancement Scheme (CAS) for re-assessment in case of anomalies—in contrast to ICAR/MOA reply given to the Parliamentary Committee."

Dr. Janaiah was re-assessed for the same period (Aug., 1991-Aug., 2000) in May 2004 as per ICAR directive. He mentioned in his representation dated 11th November, 2004 submitted to the Hon'ble Union Minister of Agriculture that ''experts have recommended, but present Project Director (Dr. B. Mishra) stopped the promotion.''

1.6.4 The Petitioner has finally stated that, as the whole issue got confused by the ICAR/MOA reply, we request ICAR/MOA to produce affidavits from the various members of the two Selection Committee (October, 2002 and May 2004) explaining the facts on why Dr. Janaiah's promotion was postponed in October, 2002 and not recommended in May, 2004.

1.6.5 When asked about the criteria being followed by the Selection Committee to assess the performance of the Scientists for judging their suitability for their next

promotion. The Ministry of Defence *vide* their written reply submitted as follows:—

"A scientist in the senior scale will be eligible for promotion to the post of senior scientst if he/she has:—

(i) Completed 5 years of service in the Senior Scale.

(ii) Obtained a Ph.D. Degree or equivalent published work.

(iii) Made some mark in the areas of scholarship and research/teaching/ extension as evidenced through self-assessment appraisal reports, reports of experts, evidenced by publications/patents/designs of new courses/innovations/extension activities.

(iv) After placement in the senior scale participated in one refresher course/ summer Institute which is either organized/sponsored by Education Division of ICAR or recognized by UGC.

(v) Participated in a workshop/seminar/symposium/conference etc.

(vi) Possessed consistently good performance appraisal report.

1.6.6 The Ministry further submitted that:—

"Research publications is not the sole criteria for placement in the next higher grade. The Selection Committee is to assess the overall performance and form its opinion in totality."

1.6.7 As regards non-assessment of Dr. Janaiah from August, 2000 till October, 2002 the Ministry in their written reply submitted that:—

"For considering placement in the next higher grade every Scientist has to apply/submit in the prescribed format alongwith all requisite information in consonance with the prescribed criteria. In the instant case Dr. Janaiah was on deputation abroad and had resumed duty at the DRR in April, 2002. He had submitted his assessment papers subsequently and the meeting of the Selection Committee was convened immediately on 26.10.2002."

1.6.8 The Ministry further submitted that:—

"The Selection Committee in its meeting on 26.10.2002 had assessed the case of Dr. Janaiah for placement as Senior Scientist. However, the Committee did not arrive at a clear conclusion and the promotion case of Dr. Janaiah was deferred to the next assessment as his ACRs indicated that he needed to be watched and observed. Since there were no clear recommendations for promotion or otherwise he cannot claim that his assessment result was reviewed/reassessed by the Selection Committee."

1.6.9 The Ministry in their subsequent reply submitted that:—

"As per the provisions of the Career Advancement Scheme (CAS) for ARS Scientists, Dr. Janaiah has been placed in the next higher grade for Senior Scientist in the Scale of Rs. Rs. 12000-18300 *w.e.f.* 05.8.2001. Subsequently, he has been selected as Professor in the Acharya N.G. Ranga Agricultural University, Hyderabad in the scale of Rs. 16400-22400 and he has been relieved on 25.6.2007 with permission to retain lien for a period of two years."

Observations/Recommendations

1.6.10 Dr. Aldas Janaiah, Scientist SS (Ag. Economics) in his representation has submitted that, the Project Director (Dr. B. Mishra) of the Directorate of Rice Research, Hyderabad (ICAR Institute) has stopped his promotion twice despite experts' recommendation. He has also stated that he had published about 20 research papers, and participated at about 17 conferences/seminars/workshops during the assessment period i.e. from August, 1991 to August, 2000. On the other hand, two other scientists namely Mr. P. Muthuraman and Mrs. G. Padmavathi were promoted despite having only 2 or 3 Research publications.

1.6.11 The petitioner has also submitted that his assessment which was due from August, 2000 was not done until October, 2002 whereas some of his Juniors, who were also on deputation like him at the time of assessment were assessed and promoted in April, 2002. Though Dr. B. Mishra, Project Director, managed to get his assessment postponed, but on direction from ICAR higher authorities, his case was recommended for re-assessment. He was then re-assessed in May, 2004 for the period from August, 1991 to August, 2000 and the experts recommended his case for promotion but the Project Director (Dr. B. Mishra) stopped the promotion.

1.6.12 The Committee note from the submissions made by the Ministry of Agriculture, that the case of Dr. Janaiah for promotion to the next higher grade of senior scientist was considered as per rules by the formally constituted Selection Committee as per the provisions of Career Advancement Scheme (CAS) for ARS Scientist. There are specific parameters and well-defined criteria for placing scientists to the next higher grade. Thus, the case of Dr. Janaiah was considered by the Committee as per rules and since two of his ACRs were graded as 'Average', he could not be recommended for placement to the next higher grade.

1.6.13 The Committee further note from the Ministry's submission that Research publications is not the sole criteria for placement in the next higher grade. The Selection Committee is to assess the overall performances and form its opinion in totality.

1.6.14 The Committee further note that for considering placement in the next higher grade every scientist has to apply/submit in the prescribed format all requisite information in consonance with the prescribed criteria. In the case of Dr. Janaiah, he was on deputation abroad and had resumed duty at the DRR in April, 2002. He had submitted his assessment papers subsequently and the meeting of the Selection Committee was convened immediately on 26.10.2002. The Selection Committee in this meeting assessed the case of Dr. Janaiah and did not arrive at a clear conclusion and the promotion case of Dr. Janaiah was deferred to the next assessment as his ACRs indicated that he needed to be watched and observed.

1.6.15 The Committee are of the view that in the case of promotions involved in case of persons on deputation, the Ministry should take appropriate steps to obtain their records in time so as to obviate delay in their promotions.

1.6.16 The Committee however, note with satisfaction that as per the provisions of the CAS for ARS scientists, Dr. Janaiah has been placed in the next higher grade of senior

scientist in the scale of Rs. 12000-18300 *w.e.f.* 5.8.2001. Subsequetly, he has been selected as Professor in the Acharya N.G. Ranga Agricultural University, Hyderabad in the scale of Rs. 16400—22400 and he has been relieved on 25.6.2007 with permission to retain lien for a period of two years.

1.7.0 Representation from Dr. I.C. Pasalu—Principal Scientist, DRR, Hyderabad

1.7.1 Dr. I.C. Pasalu, Principal Scientist, Crop Protection, DRR in his representation dated 1st February, 2005 submitted that great injustice has been done by ICAR in denying him the antedation promotion from S2 to S3 grades from due date although the decision of the council are very clear. He has, therefore, requested that proper justice may be done in this regard.

1.7.2 This representation forwarded to the Ministry of Agriculture (DARE) for furnishing their comments. In response, the Ministry of Agriculture (DARE) *vide* their communication dated 19th April, 2005 submitted as follows:—

> "Dr. Pasalu was Jr. Class-I Scientist with effect from 16.06.1975 and as such on completion of 5 years service in the said grade with effect from 15.06.1980 , he was considered under the then scheme of promotion to the erstwhile grade S-2 by the Agricultural Scientist' Recruitment Board (ASRB) for the periods ending 1980 & 1981. The Board did not recommend his promotion for the period ending 1980 and recommended him for promotion for the period ending 1981, which accrued to him with effect from 01.07.1982 as per the then rules applicable.
>
> Later on, in the light of the judgment dated 5.3.1987 of the Hon'ble Delhi High Court in CWP No. 1192, he was considered for merit promotion to the erstwhile grade S-2 for the periods ending 1975 and 1976 by the Board. Since he could be recommended for merit promotion to the erstwhile grade S-2 for the period ending 1976 only in the second attempt, the date of accrual of promotion, i.e. 01.07.1977, is perfectly in order.
>
> Moreover, the provision for antedation of promotion from 1.7.1976 in the case of those promoted in the second attempt as per the approved policy of Council was applicable only upto 1979, whereas the case of Dr. Pasalu does not fall in this category.
>
> Thus, no bias or malafide intentions could be attributed and the Board/Council has processed these issues strictly as per rules and regulations concerning this issue."

1.7.3 The above comments as furnished by the Ministry were forwarded to the petitioner for information. In response, Dr. M. Jagannath, MP submitted further representation stating therein that:—

> "The petitioner is aggrieved because relevant order issued by ICAR is not followed while providing antedation promotion. The petitioner was asessed in five-yearly assessment and promoted on his second attempt from Scientist S-1 to Senior Scientist S-2.

In a landmark judgment of Delhi High Court in CWP 1192/84 Dr. M.L. Lodha and other Vs. U.O.I. the court directed that rule 19(2) be relaxed in favour of petitioners and other erstwhile Jr. Class I Scientists who had been absorbed in grade S-1 *w.e.f.* 1.10.75 and further to give affect to the said relaxation to the case of eligible S-1 scientist for promotion w.e.f. 1.7.76.

The net result of this decision was that all those S-1 scientists recruited directly/inducted on 1.10.75 irrespective of length of service in S-1 grade were made eligible for consideration for assessment for the year ending 1975 and thereafter.

On the above directions of the Delhi High Court, ASRB found it practically not possible to assess those scientists S-1, who had less than five years of service even in some cases less than a year's service, The council, therefore, with the approval of the President, ICAR decided to antedate the recommendations of the ASRB in respect of these scientists by the number of years they were short of five years and since such cases were in large number it was further decided that these S-1 scientists who got promotion in first or second attempt may be given S-2 grade *w.e.f.* 1.7.76 and in respect of those scientists who got the promotion in 3rd or subsequent attempts may be antedated by the number of years, they were short of five years. Dr. Pradhan and Dr. Mandal and similar other scientists, S-1, got promotion in second attempt were given promotion *w.e.f.* 1.7.76.

Thus, despite clear instructions from ICAR, ICAR's rules and regulations are often mis-quoted to deny its own staff the rightful benefits from Service that are enshrined in its orders. It is imperative to consider all the orders and communications/guidelines issued by ICAR and the service book to settle this issue and provide appropriate relief to the petitioner."

1.7.4 Responding to the issues raised by the petitioner, the Ministry in their written reply submitted as follows:—

"Dr. I.C. Pasalu was appointed as Junior Class I with effect from 16.6.1975, and on completion of five years of service in the said grade with effect from 15.6.1980, was due for consideration for promotion to the next higher grade of erstwhile S-2. He was assessed by the ASRB for the period ending 1980 (31.12.1980) and was granted only two advance increments. On further assessment for the period ending 1981 (31.12.1981) he was recommended for promotion to the grade S-2 which accrued to him with effect from 1.7.1982.

Meantime based on the judgment of the Delhi High Court dated 5.3.1987 and on the recommendations of a High Powered Committee constituted under the directions of the Central Administrative Tribunal, Delhi, in their judgment dated 28.1.1992, the cases of all scientists who were holding Junior Class I position as on 1.10.1975 were considered for antedation of their promotion to grade S-2 with effect from 1.7.1976. Since, Dr. Pasalu was recommended for merit promotion to the erstwhile grade S-2 for the period ending 1976 in the second attempt only his promotion has accrued

from 1.7.1977. The provision for antedation for promotion from 1.7.1976 was applicable only in case of those scientists who had completed their term of five years upto 31.12.1979. Since Dr. Pasalu completed his five years of service in June, 1980 only, he could not be granted further antedation with effect from 1.7.1976. Thus he has already been granted the benefits of antedation from 1.7.1977.

The performance of the Scientist as reflected in the five yearly assessment Performa and his ACRs for the five years are taken into consideration to determine the merit promotion."

1.7.5 The Ministry *vide* their subsequent written reply submitted that:—

"Dr. Pasalu has been granted the benefit of antedation of promotion to grade S-2 *w.e.f.* 01.07.1977 and no further antedation *i.e.* 01.07.1976 is permissible as per rules."

Observations/Recommendations

1.7.6 The Committee note from the submissions made by the petitioner that, he was denied antedation promotion from S-2 to S-3 grades from due date despite ICAR decision.

1.7.7 The Committee futher note that based on the judgement dated 5.3.1987 of Delhi High Court in CWP. 1192/84, the Court had directed that, Rule 19(2) be relaxed in favour of petitioners and other erstwhile Junior Class I scientists who had been absorbed in grade S-1 *w.e.f.* 1.10.1975. Thus, based on the judgment of the Delhi High Court and on the recommendations of a High Powered Committee constituted under the directions of the Central Administrative Tribunal, Delhi in their judgment dated 28.1.1992, the cases of all scientists who were holding Junior Class-I position on 1.10.1975 were considered for antedation of their promotion to grade S-2 with effect from 1.7.1976.

1.7.8 The Committee further note from the Ministry's submission that, since Dr. Pasalu was recommended for merit promotion to the erstwhile grade S-2 for the period ending 1976 in the second attempt only his promotion has accrued from 1.7.1977. The provision for antedation promotion from 1.7.1976 was applicable to those who had completed their term of five years upto 31.12.1979. Since. Dr. Pasalu completed his five years of service in june, 1980 only, he could not be granted further antedation *w.e.f.* 1.7.1976. thus, he has been granted the Benefits of antedation of promotion to grade S-2 *w.e.f.* 01.07.1977.

1.7.9 Howewever, the Committee note from the submission made by the petitioner that, as per the judgment given by the Delhi High Court, all those S-1 scientists recruited directly/inducted on 1.10.1975 irrespective of length of service in S-1 grade were made eligible for consideration for assessment, for the year ending 1975 and thereafter. Based on these directions of Delhi High Court, ASRB found it practically not possible to assess those scientists S-1, who had less than 5 years of service. The council, therefore, with the approval of the President ICAR, decided that these S-1 scientists who got promotion in first or second

attempt may be given S-2 grade *w.e.f.* 1.7.1976 and in respect of those scientists who got the promotion in 3rd or subsequent attempts may be antedated by the number of years, they were short of five years. Dr. Pradhan and Dr. Mandal and similar other scientists S-1, who got promotion in second attempt were given promotion *w.e.f.* 1.7.1976.

1.7.10 The Committee are of the considered view that the Government should implement the judgment given by the Delhi High Court in letter and spirit in consultation with Ministry of Law and Justice and honour the same for all equally placed grade S-1 scientists.

1.8.0 Dr. A.G.K. Murthy—Principal Scientist, DRR, Hyderabad

1.8.1 Dr. A.G.K. Murthy, Principal Scientist, DRR, in his representation submitted that he had served as the Head of the Regional Station at Dinhata from 11.07.1991 to 30.8.1996, he became eligible for promotion as Principal Scientist w.e.f. 11.7.1991, the day he assumed charge. He has, therefore, requested that proper justice may be done in this regard.

1.8.2 The representation was forwarded to the Ministry of Agriculture (DARE) for furnishing their comments. In response, the Ministry *vide* their communication dated 19th April, 2005 submitted that:—

> "Dr. A.G.K. Murthy was functioning at the Central Tobacco Research Institute, Rajahmundry before he was transferred to the Directorate of Rice Research on his own request in September, 1999. He has been placed as Principal Scientist *w.e.f.* 27.7.1999 as per rules.
>
> Dr. Murthy has been claiming that during his tenure at CTRI he had functioned as Officer-in-charge of the Dinhata station of CTRI from 11.7.1991 and his placement as Principal Scientist should be antedated *w.e.f.* that date *i.e.* 11.7.1991. After a gap of nearly 14 years, Dr. Murthy has filed an OA on this issue in the CAT Hyderabad Bench. The issue is presently sub-judice."

1.8.3 In response to the Ministry's reply, Dr. M. Jagannath, MP submitted further representation stating therein as follows:—

> "In the reply from ICAR/MOA, 'claming' is used to mislead albeit to deny promotion to Dr. Murthy, as the transfer order clearly proves that he was ordered to "hold charge of the office as officer-in-charge, CTRI Research Station, Dinhata."
>
> ARS Rules of ICAR clearly indicated the guidelines to be followed for appointing and regulating Head of Division/Regional Stations. Further, the mode for interim arrangement was also indicated and defined. The Director, CTRI appearently ordered Dr. Murthy to hold charge of the office as Officer-in-charge, CTRI Research Station, Dinhata as he then judged and trusted Dr. Murthy to be the most able and suitable person although several other Principal Scientists were available at CTRI. This ability of Dr. Murthy and the choice of Director, CTRI was proved by the fact that Quinqunnial Review Team

report appreciated Dr. Murthy's successful efforts as Officer-in-charge, CTRI Research Station, Dinhata.

Despite the attention drawn for regularising the interim arrangement as Head, Regional Station, Director (Dr. M.S. Chary), CRTI not only failed to take any action, but has totally ignored these ICAR's directives. As Officer-in-charge, CTRI Research Station, Dinhata Dr. Murthy performed duties in Research Managerial Position which ICAR considers to higher than that of Principal Scientist. Dr. Murthy was denied position of Principal Scientist which was rightfully due to him for having served successfully in a remote and backward area for a full term of five years as Officer-in-charge, CTRI Research Station, Dinhata. It is necessary to verify the records and to provide relief to the petitioner.

1.8.4 When asked about the position and post held by Dr. Murthy before his transfer from CTRI, the Ministry in their written reply submitted that:—

"Dr. Murthy was holding the post of Senior Scientist in the then grade of Rs. 3700—5700 (now revised to Rs. 12000—18300) at the time of his transfer from CTRI, Rajahmundry. On his transfer he was designated as the Officer-in-charge of the particular station for functional convenience for routine day to day affairs as the smaller regional stations are usually managed by Scientist/ Senior Scientist as Officer-in-charge. This does not confer any right on him for claiming antedation or the higher grade of Principal Scientist in the scale of Rs. 16400—22400."

1.8.5 Furnishing the latest position of the case, the Ministry *vide* their subsequent reply submitted that:—

"Dr. A.G.K. Murthy, Principal Scientist had filed an OA No. 994/2004 in the Hon'ble CAT, Hyderabad Bench and presently the issue is sub-judice."

Observations/Recommendations

1.8.6 The Committee note from the above submissions that Dr. A.G.K. Murthy was functioning at the Central Tabacco Research Institute, Rajahmundry before he was transferred to the Directorate of Rice Research on his own request in September, 1999. He was holding the post of senior scientist in the then grade of Rs. 3700—5700 (now revised to Rs. 12000—18300). On his trasfer he was designated as the Officer-in-charge of the particular station for functional convenience for routine day to day affairs as the smaller regional stations are usually managed by scientist/senior scientist as officer-in-incharge. This does not confer any right on him for claiming antedation on the higher grade of Principal Scientist in the scale of Rs. 16400—22400.

1.8.7 The Committee further note that Dr. A.G.K. Murthy, Principal Scientist has filed an O.A. No. 994/2004 in the Hon'ble CAT, Hyderabad Bench and presently the issue is sub-judice.

1.8.8 The Committee note with concern that the case is pending for final judgment since 2004. The Committee are, therefore, of the view that the Government should

make concerted efforts to get the matter expedited in the Hon'ble CAT Hyderabad, at the earliest. The Committee would also like to be apprised of the final judgement given by the CAT Hyderabad Bench in this regard.

1.9.0 G.S.V. Prasad—Technical Officer DRR, Hyderabad

1.9.1 The petitioner in his representation submitted that great injustice has been done by ICAR in denying him the induction from Technical to Scientific Cadre from due date although the decisions of the Council are very clear. He has, therefore, requested that proper justice may be done in this regard.

1.9.2 The representation was forwarded to the Ministry of Agriculture (DARE) for furnishing their comments. In response, the Ministry *vide* their communication dated 19th April, 2005 furnished the following comments:—

> "The Agricultural Research Services (ARS) was formally constituted *w.e.f.* 1.10.1975. As a one time relaxation at the initial time of constitution such of those Technical Assistants in the erstwhile pre-revised grade of Rs. 425—700 who where on regular employment as on that date *i.e*. 1.10.1975 were permitted, *inter-alia*, to be inducted in the scientific category provided they possessed a Masters' Degree in one of the disciplines of the Agricultural Research Service. A grace period of five years *i.e*. upto 30.9.1980 was also allowed to acquire Masters' degree in the case of such incumbents. There has been no subsequent relaxation on this issue.
>
> Dr. G..S.V. Prasad was earlier an ad-hoc/contractual employee under one of the Ford Foundation Projects and has been appointed on regular basis as T-II-3 *w.e.f.* 9.11.1977. Subsequently, as per the provisions of the Technical Service rules, he has been placed in the next higher grade(s) of T-4 and T-5 *w.e.f.* 1.7.1983 and 1.1.1989 respectively.
>
> Since he was not holding a regular post as on 1.10.1975, he could not be considered for induction under the above mentioned one time relaxation.
>
> Dr. Prasad had filed an O.A. in the CAT Hyderabad bench and his prayer was rejected and the CAT upheld the stand of the DRR/Council. Dr. Prasad has again filed a WP in the High Court of Andhra Pradesh on the same issue and the matter is sub-judice."

1.9.3 In this regard Dr. M. Jagannath, MP submitted a further representation stating therein that:—

> "Irrelevant excuse have been submitted by ICAR/MOA to brush aside claim as can be seen from the following:
>
> * The scheme mentioned was in operation from June 1975 to June 1980 at nine different centres including DRR.
>
> * The relevant applicable rules in ICAR order No. 8-7/78-Per. IV dated 18.11.1978, 13.6.1983 and 13.3.1985 which stated that "Technical Personnel appointed in council's service after 1.10.1975 on the basis of recruitment action initiated

prior to that date may be considered for induction w.e.f. the date of their joining Council's Service subject to possession of Master's degree qualification on that date."

* Therefore, many ICAR personnel appointed after 1.10.1975 were inducted into S-category.

* On this valid basis as Dr. Prasad had joined on 09.11.1977 in ICAR as Technical Assistant possessing a Master's Degree qualification he sought justice at CAT, Hyderabad. The Hon'ble judges also directed ICAR to reconsider the case on the line of justice provided to similarly placed ICAR personnel. However, ICAR brushed aside by citing an irrelevant rule that is applicable to others who joined on or before 1.10.1975 but not applicable to those who joined after 1.10.1975."

1.9.4 When asked about the judgment given by the CAT, Hyderabad Bench, the Ministry *vide* their written reply submitted as follows:—

"Dr. G.S.V. Prasad had approached the Hon'ble CAT, Hyderabad in 1998 on the issue of his induction in the Agricultural Research Service. Considering all these issues in detail and in totality the Hon'ble CAT *vide* its judgement dated 24.9.1999 (OA No. 34 of 1998) had dismissed the OA with the following observations:—

"The respondents to examine the versions made by the applicant in regard to the significant contributions made in the field of specialization and also his doctorate degree for enlisting him in the ARS Scientist cadre from an appropriate date. If the respondents reject the above suggestion given to extend the discretionary powers of the respondents, if the applicant deserves it.

However, this was examined but the same could not be acceded to by the Council as the same was not covered under the rules and instructions on this subject. Presently, Dr. Prasad has filed a writ petition no. 14508/2000 in the High Court of Andhra Pradesh for his induction. The DRR has filed the counter reply and the same has been listed for regular hearing in the High Court of Andhra Pradesh and presently the issue is sub-judice."

Observations/Recommendations

1.9.5 The Committee note that the ARS was formally constituted *w.e.f.* 1.10.1975. As a one time relaxation at the initial time of constitution, such of those Technical Assistants in the erstwhile pre-revised grade of Rs. 425-700 who were on regular employment as on that date *i.e.* 1.10.1975 were permitted, *inter-alia* to be inducted in the scientific category provided they possessed a Master's Degree in one of the disciplines of the Agricultural Research Service. A grace period of 5 years *i.e.* upto 30.9.1980 was also allowed to acquire Master's Degree in the case of such incumbents.

1.9.6 The Committee note that the petitioner was earlier an ad-hoc/contractual employee under one of the Ford Foundation/Projects and was appointed on regular basis as T-IV-3 *w.e.f.* 9.11.1977. Subsequently, as per the provisions of the Technical

Service Rules, he was placed in the next higher grades of T-4 and T-5 *w.e.f.* 1.7.1983 and 1.1.1989 respectively.

1.9.7 The Committee further note that since the petitioner was not holding a regular post as on 1.10.1975, he could not be considered for induction under the said time relaxation.

1.9.8 The Committee also note that Dr. G.S.V. Prasad had approached the Hon'ble CAT, Hyderabad in 1998 on the issue of his induction in the ARS. Considering all these issues in detail and in totality the Hon'ble CAT *vide* its judgement dated 24.9.1999 had dismissed the O.A. Presently, Dr. Prasad has filed a Writ Petition No. 14508/ 2000 in the High Court of Andhra Pradesh for this induction. The DRR has filed the counter reply and the same has been listed for regular hearing in the High Court of Andhra Pradesh and presently the issue is sub-judice. The Committee would, therefore, not like to pursue the matter further.

1.10.0 Smt. Aparna Das, Personal Assistant, Crop Protection, DRR, Hyderabad

1.10.1 Ms. Aparna Mukherjee, PA, DRR, Hyderabad submitted a representation stating therein that she was appointed as Junior Stenographer at DRR, Hyderabad and was asked to pass the stenography exam from the Board Exam of A.P. Technical Education, which she did in January, 1990. But her appointment was regularized only from December 31, 1991 putting her as Junior to several others. This injustice was not redressed in spite of her repeated request. She has, therefore, requested that proper justice may be done in this regard.

1.10.2 The representation was forwarded to the Ministry of Agriculture (DARE) for furnishing their comments. In response, the Ministry *vide* their communication dated 19th April, 2005 furnished their comments stating therein that:—

> "Smt. Aparna Das was appointed as Junior Stenographer w.e.f. 11.11.1987. Immediately in the course of work it emerged that she did not possess the required proficiency in shorthand and that her performance was not up-to-mark and she had been directed at the time of joining to qualify herself in the lower grade shorthand examination conducted by the AP State of Technical Education within a period of six months for regularizing her appointment. This period was subsequently extended upto a maximum period of 18 months purely on humanitarian grounds to enable her to qualify the said examination.
>
> On 29.3.1989 Smt. Das requested in writing that she is not able to pass the said test and that as a special case she may be considered for appointment in the lower grade of Junior Clerk till she qualifies the said stenography examination. Accordingly, Smt. Das was offered the post of Junior Clerk on temporary-provisional basis as a very special case.
>
> On the last date of her extension granted to her, she served an order of the CAT/Hyderabad Bench mentioning that she should be given one more chance to pass the examination scheduled to be held in May/June, 1990 and in the event of her not passing the examination, it would be open for the department

to terminate her services. However, on her qualifying the said exam she has been regularized in the post of Junior Stenographer *w.e.f.* 31.12.1991 and her request for regularizing her from 01.04.1989 cannot be acceded to as per rules."

1.10.3 After perusal of the comments as furnished by the Ministry Dr. M. Jagannath, MP submitted further representation stating therein that:—

"The reply from ICAR/MOA does not meet with the core issue raised by the petitioner at all. At the time of appointment *vide* Memorandum No. PD/Admn/ 10996(a)/8/88 dated 11.11.1987 Smt. Aparna Das was not intimated nor any condition was imposed that she needs to acquire additional lower shorthand examination conducted by A.P. State of Technical Education. She was selected by a duly constituted Selection committee who apparently considered her qualifications to more than adequate for appointment as Junior Stenographer.

Much later, however, probably in deferment of non-selection of some other preferred candidate, and with an intention to cause damage to her service, an Inter Office memorandum was issued by Administrative Officer, indicating that she should qualify herself in the Stenography (Shorthand) Examination conducted by AP State of Technical Education for regularization of appointment. Smt. Aparna was probably pre-occupied with official work including household burden, as she was the sole income earner, and therefore, sought extension which was granted and she appeared for the examination in 1989 and qualified.

Smt. Aparna Das was unjustifiably informed that she would be regularized in service only from the date of her qualifying in this examination. Her appointment indicated that Selection Committee definitely were satisfied with her qualification, ability and skill. Therefore, Smt. Aparana Das sought justice for obtaining due regularization w.e.f. the date of her first joining ICAR service."

1.10.4 On being asked, that on what grounds Smt. Aparna Das was appointed as Stenographer when she did not possess the required proficiency in shorthand, the Ministry in their written reply submitted that:—

"Smt. Aparna Das was appointed as Stenographer in November, 1987. In her daily routine assignment she was not able to deliver her assignments in time due to lack of required proficiency in shorthand. She could not pass the subsequent test conducted by the DRR. On humanitarian grounds she was given six months time to qualify the shorthand examination conducted by the A.P. Techcnical Education Council for regularizing her appointment. Inspite of further extension she could not qualify the exam and on her own request and as a very special case she was appointed as a junior clerk till she cleared her stenography examination."

1.10.5 When asked if there is any provision in service Rules to give such relaxation given to the petitioner, the Ministry in their written note submitted that:—

"There are no such provisions in the service rules and as per records available at the ICAR headquarters no such relaxation has been given to any other

employee. In compliance of the directions of the CAT Hyderabad and on her qualifying the examination the Directorate of Rice Research and appointed her as Junior Stenographer with effect from 31.12.1991. Inspite of all these relaxations Smt. Das has been requesting for antedating her appointment as Junior Stenographer with effect from 1.4.1989 which cannot be acceded to as in the interregnum she had been working as junior clerk on her own volition."

Observations/Recommendations

1.10.6 The Committee note from the above submissions that Smt. Aparna Das was appointed as Junior Stenographer w.e.f. **11.11.1987. In her daily routine assignment she was not able to deliver her assignments in time due to lack of required proficiency in shorthand. At the time of joining she was directed to qualify herself in the lower grade shorthand examination conducted by the Andhra Pradesh State of Technical Education within a period of six months for regularization of her appointment. This period was subsequently extended upto a maximum period of 18 months purely on humanitarian grounds to enable her to qualify the said examination.**

1.10.7 The Committee are surprised to note that though there were no provisions in the service rules of DRR to give such relaxations, the DRR not only gave relaxations by extending the time period number of times to qualify the shorthand examination conducted by Andhra Pradesh State of Technical Education to the petitioner, but also based on her written request dated 29.3.1989 appointed her as Junior Clerk on temporary provisional basis, that too till she qualifies the said stenography examination. The Committee, take a serious note of violation of service Rules by the DRR to give benefits in a particular case as per their whims and fancies.

1.10.8 The Committee would, like the Ministry to enquire into the matter as to why even the basic necessary qualification of passing a shorthand exam before appointing a stenographer was not fulfilled by the DRR. The Committee would, therefore, like to recommend that the Ministry should also take action, as admissible under the Rules, against any official found guilty of violating the Service Rules, in order to favour a particular candidate.

1.10.9 The Committee further note with surprise that though the petitioner had qualified the required examination in 1989, her services has been regularized in the post of Junior Stenographer w.e.f. **31.12.1991 only. The Committee are therefore, of the opinion that the services of the petitioner as Junior Stenographer may be regularized from the date on which she had qualified her shorthand examination. The Committee would like to be apprised of the final action taken in this regard.**

1.11.0 Representation from Shri B. Narsimha Reddy and Shri P. Adhi Sesha Rao, Technical Assistants, DRR, Hyderabad.

1.11.1 In their representations, Shri B. Narasimha Reddy and Shri P. Adhi Sesha Rao, Technical Assistants in DRR, Hyderabad stated that they became eligible for Merit promotion from 1.1.2000 from Technical Assistant T-II-3 (now T-3) to Technical Assistant T-4 from 01.01.2000 and 01.01.2001 respectively. The petitioners, therefore, requested that proper justice may be done in this regard.

1.11.2 Both the representations were forwarded to the Ministry of Agriculture (DARE) for furnishing their comments. In response the Ministry of Agriculture have submitted that:—

> "The concerned officials have been appointed as Field Technicians (T-1) in the Field/Farm functional group under category I of ICAR technical service rules on 15.7.1980 and 16.6.1982 respectively.
>
> Subsequently, as a policy decision for selective removal of category bar *i.e*. for upward movement from category I to category II was approved in 1995 for the existing employees who possess the requisite qualifications prescribed for entry to category II by direct recruitment for their placement in category II *w.e.f.* 01.01.1995.
>
> Both these officials were accordingly placed in category II w.e.f. 01.01.1995 and 01.01.1996 as per the above provision. A doubt was raised as to whether the graduation of these two personnel in Arts is relevant to their functional group of Field/Farm Technicians and if their placement in Category II is in order. The issue has been examined in detail and necessary clarifications have been issued recently. However, further assessment of these two personnel shall be got done at the earliest."

1.11.3 After perusal of the comments as furnished by the Ministry Dr. M. Jagannath, MP submitted further representations, stating therein that:—

> "The statement that "A doubt was raised as to whether the graduation of these two personnel in Arts is relevant to their group of Field/Farm Technicians and if the placement in Category II is in order" is clearly intended to create an impediment to giving their rightful assessments. Who raised such doubts and why were they not immediately addressed to find solutions till date?
>
> Further, while agreeing "further assessment of these two personnel shall be got done at the earliest" the reply from ICAR/MOA has attempted to mislead by saying the clarification has been issued recently. In fact, ICAR has issued Communication No. F.19(7)/2000-Estt.IV as early as 6th February, 2003 on the "Modification of the existing Technical Service Rules of ICAR—clarification-regarding". In this clarification Council has stated that "five years of service for assessment benefit to T-4 grade irrespective of qualification". And therefore, these two Technical Assistants should have obtained further assessment promotion as given to similarly placed Technical Assistants in other ICAR institute including the one adjoining DRR campus, namely National Research Centre for Sorghum (NRCS)."

1.11.4 Against some of the points/doubts relating to Technical Service matter of technical personnel, the ICAR *vide* their communication dated 6.02.2003 have clarified as under:—

> "A. As per the instructions contained in the ICAR letter No. 14-3-94-Estt.IV dated 1.2.95, the existing employees at the level T-I-3, who possess qualifications prescribed for entry to Category II by direct recruitment will be placed in

grade T-II-3 of Category II *w.e.f.* 1.1.95. The employees who do not possess such qualification will in the event of improving their qualification and acquiring degree/diploma/any other qualification prescribed for entry in Category II by direct recruitment will be placed in grade T-II-3 from 1st January of the year following the year in which degree/diploma/ certificate is awarded. Further, the ICAR Notification No. 18(1)/97-Estt.IV dated 3.2.2000 provides that from T-2 grade such personnel possessing the qualification as prescribed therein for Category II for direct recruitment, would be eligible for assessment promotion to T-3 grade after five years of service, while those not possessing such qualifications shall become eligible for assessment promotion to T-3 grade only after 10 years of service in T-2 grade. As such, the technical personnel in grade T-2 and erstwhile T-I-3 who do not possess qualification prescribed for direct recruitment to grade T-3 in Category II will be placed in T-3 grade only on completion of 10 years of combined service in grade T-2 and T-I-3 as on 3.2.2000 or thereafter.

B. As per the instructions contained in Council's letter No. 14-3/94-Estt.IV dated 10.1.96, the service rendered in T-I-3 for the purpose of counting of five years of service for grant of merit promotion/advance increment from T-II-3 to T-4 shall not be counted for the purpose of computation of prescribed years of service. It is thus clarified that the service rendered by the technical personnel in grade T-II-3 (now T-3 *w.e.f.* 3.2.2000) will be counted for computation of five years of prescribed service for merit promotion to T-4 grade or advance increment.

C. The service rendered in T-II-3 (now T-3) grade or Category II is only to be counted for purpose of computation of 5 years of service for assessment benefit to T-4 grade irrespective of qualifications as per provisions contained under the Technical Service Rules and also the Instructions contained in para 2(i) of Council's Notification dated 3.2.2000."

1.11.5 When asked about the Competent Authority, who approved for removal of category bar, the Ministry in their written reply submitted that:—

"Based on numerous representation from the Technical category employees for removal of category barrier/merger of categories, the policy for selective removal of category bar from Category I to Category II was considered in detail and finally approved by the Competent Authority *i.e.* the Governing Body of the Council in 1995 to ease stagnation of Technical employees.

The doubt regarding the petitioner's case had risen primarily because of the model qualifications prescribed for various functional group *vis-à-vis* the qualifications possessed/acquired by these technical personnel. After careful consideration it has been decided as a General Policy that Technical Personnel of Category-I who do not possess the qualifications prescribed for Category-II for direct recruitment will continue in Category-I only. Since both

the Technical Personnel do not possess a degree in Science (as relevant to the direct recruitment category) their further Promotion as per Technical Service Rules cannot be acceded to."

1.11.6 As regards examination of the issue by DRR or ICAR, the Ministry in their written reply submitted that:—

"The initial examination was done at the Institute level *i.e*. DRR and on their seeking a specific clarification the ICAR headquarters has arrived at a general policy directive on this issue."

1.11.7 On being asked to furnish the details of similar cases, besides the two petitioners, which needed clarifications/review, the Ministry communicated as under:—

"The anomaly/doubt shall be got rectified/clarified at the earliest possible and further assessment shall be got done expeditiously depending on the availability of experts relevant to this functional group. Apart from the two petitioners, two more similar cases have been referred to the ICAR by the DRR."

1.11.8. In their communication dated 27.08.07, the Ministry of Agriculture submitted the updated status in the cases of the petitioners as under:—

"As per provisions of the Technical Service Rules of the Council all the technical personnel of Category-I who do not possess the qualifications prescribed for Category-II for direct recruitment will continue in Category-I only. Since both the Technical Personnel do not possess a degree in Science (as relevant to the direct recruitment category) their further Promotions as per Technical Service Rules cannot be acceded to."

Observations/Recommendations

1.11.9 The Committee note that the petitioners namely Shri B. Narasimha Reddy and Shri P. Adhi Sesha Rao, were appointed as Field Technicians (T-I) in the field/ Farm functional group under category I of ICAR Technical Service Rules on 15.7.1980 and 16.6.1982 respectively.

1.11.10 The Committee note that based on numerous representations from the Technical Category employees for removal of category barrier/merger of categories, the policy for selective removal of category bar from category I to category-II was considered in detail and finally approved by the Competent Authority *i.e.* the Governing Body of the ICAR in 1995 to ease stagnation of technical employees. As per the policy decision, the existing employees who possess the requisite qualifications prescribed for entry to category-II by direct recruitment will be placed in category II *w.e.f.* 1.1.1995. Both the petitioners were accordingly placed in category II *w.e.f*. 1.1.1995 and 1.1.1996. However, a doubt was raised as to whether the degree of graduation in Arts possessed by the petitioners is relevant to their functional group of Field/Farm Technicians and if their placement in category-II is in order. The said doubt had arisen because of the model qualifications prescribed for various functional groups vis-à-vis the qualifications possessed/acquired by these technical personnel.

1.11.11 In their latest status report, the Committee were informed that as per the provisions of the Technical Service Rules of the Council all the Technical Personnel of category-I who do not possess the qualifications prescribed for category-II for direct recruitment will continue in category-I only. Since both the petitioners do not possess a degree in science (as relevant to the direct recruitment category) their further promotions as per Technical Service Rules could not be acceded to.

1.11.12 The Committee not from the submissions made by the petitioners that ICAR Technical Service Rules were modified vide Notification No. F.18-1/97-Estt.IV dated 03.02.2003. In response to doubts/points raised by some of the Institutes on certain issues relating to Technical Service matters, ICAR vide letter F.19(7)/2000-Estt.IV dated 06.02.2003 issued clarifications on points/doubts raised by the Institutes. One of the points/doubts clarified by the ICAR was that the service rendered by the technical personnel in grade T-II-3 (now T-3) will be counted for computation of 5 years of prescribed service for merit promotion to T-4 grade as per ICAR Notification dated 03.02.2000. In response to another point, the ICAR had clarified that the persons at the level of T-I-3 (now T-2) under category-I will become eligible for promotion to T-II-3 (now T-3) grade in category-II only after 10 years of service in T-2 grade, as on 03.02.2000 or thereafter, if they do not possess such qualification as prescribed for direct recruitment to grade T-3.

1.11.13 From the foregoing, the Committee observe that the petitioners were appointed/placed in T-3 grade with effect from 01.01.1995 and 01.01.1996 respectively. The Ministry/ICAR have not placed any record before the Committee to show that the petitioners have been reverted to the lower grade of T-2 under category-I for want of requisite qualifications. In the absence of such records, the Committee presume that both the petitioners continue to hold the grade of T-3 to which they were appointed/ placed in 1995/1996. In the circumstances, both the petitioners have put in 5 years of service in T-3 grade on 01.01.2000 and 01.01.2002 respectively and thus became eligible for promotion to T-4 grade with effect from 01.01.2000 and 01.01.2001 respectively as per the provisions of the Rules notified by ICAR on 03.02.2000. The Committee are, therefore, of the view that both the petitioners should be considered for their next promotion in T-4 grade and they should not be deprived of their due promotion in T-4 grade simply because they do not possess the requisite qualifications meant for the T-4 grade as a direct recruit. In the opinion of the Committee if the qualification of Arts possessed by the petitioners was considered relevant at the time of their induction in service as Field Technicians (T-I) under category-I and subsequent promotion as T-II and T-III category, then there should not be any objection if the said qualification is taken into consideration for their assessment promotion particularly when they have earned rich and valuable experience by virtue of their service rendered in the feeder grade. In fact, the ICAR in principle have agreed to grant the benefit of length of service without insisting for requisite qualification and provided in their Rules that such persons who do not posses the qualification as prescribed for direct recruit, will be considered for promotion for T-3 grade if they put in at least 10 years of service in T-2 grade. However, the Committee are constrained to note that such benefit has been extended to them on or after 03.02.2000. The Committee do not find any rationale or justification to

implement the said provisions on or after 03.02.2000 instead of from 01.01.1995, the date on which the policy of category barrier was removed or merger of categories was implemented for upward movement of employees from category I (T-2) to category II (T-3). There is also no record before the Committee to show that original modified rules as notified on 03.02.2000 made imperative to grant the benefit of 10 years service only on or after 03.02.2000, for promotion to T-3 grade.

1.11.14 The Committee are anguished to note that the modified rules issued by ICAR over a period of time lack clarity. These rules instead of regulating smooth career advancement of the employees, created doubts even in the minds of implementing authorities. The Committee, therefore, recommend that whole issue involving career prospects of the petitioners and others as well, should be reconsidered/reviewed afresh with the intention to give adequate relief to them without compromising the functional needs and efficiency of the Institute.

1.11.15 The Committee not with concern that eight employees working in DRR have submitted their representations complaining therein about non settlement of their respective grievances. It was also informed to the Committee that apart from the two petitioners, two more similar cases had also been referred to the ICAR for clarifications. The Committee are of the view that being the nodal agency, the Ministry of Agriculture simply can not absolve themselves of their responsibility on such vital issues like recruitment rules for efficient functioning of the Institute and to provide adequate career opportunity to their employees. The very fact that a number of employees have approached the Committee for redressal of their grievances amply proves that either no such mechanism exists in the Institute or the concerned authorities have failed to address the genuine grievances of the employees to their satisfactions. The Committee feel that such issues should be resolved with humane approach and consideration. The Committee, therefore, recommend that an effective grievance redressal mechanism should be set up in DRR or in other such Institutes under the Ministry. The Committee would like to be apprised of the action taken in the matter.

CHAPTER II

REPRESENTATIONS REGARDING PROCUREMENT OF 'RAILS' BY INDIAN RAILWAYS FROM ONLY ONE SUPPLIER

2.1 S/Shri Anant Nayak and Jual Oram, Hon'ble Members of Parliament submitted representations alleging a huge loss to Indian Railways as a result of procurement of "Rails" by Indian railways from only one supplier.

2.2 In their representations, Hon'ble Members submitted that Indian Railways had made amendment in the Rail specifications in June, 2002, Where, in addition to prescribing hydrogen content in rail steel to be 1.6 ppm, it also specified the process of removing hydrogen to be 'RH degassing' for any rail manufacturer to become eligible for supplying rails to Indian Railways. No other country in the world has specified the process of hydrogen removal in its rail specification. Both the processes "RH degassing' and 'Tank degessing' are being used throughout the world for hydrogen removal from rail steel. The petitioners alleged that it might have been done to keep the monopoly of one party in supply of Rails and as a result thereof, Indian Railways are losing more than Rupees 500 crores annually by procuring Rails from only one supplier. The petitioner also alleged that during the meeting to review Rail specification in February, 2006, although the metallurgical experts of RDSO were against retaining a particular process for hydrogen removal in the rail specification, the other Members, predominately for SAIL and from Track Directorate of Railways who are civil engineers and not experts in metallurgy did not agree to deletion of RH degassing process from Indian Rail specifications. According to the petitioners, the demand of Rails in the country is set to increase substantially in the coming years due to construction of dedicated freight corridors and Golden Quadrilateral by Indian Railways. There is also a large backlog of track renewal programme which also requires a large quantity of Rails. Demand for newer and heavier type of Rails is also expected in the near furture on account of Railways plan to be expand progressively to increase the axle-load, train speed and introduce double-stack trains on dedicated freight corridors. All these would require new and heavy type of Rails in the near future. However, the petitioners alleged that Indian Railways are not encouraging new suppliers who have been making endeavours to bring in new technologies and a better and diverse range of Rails. Railways seemed to be depending on a lone supplier or otherwise on costly imports, which are causing heavy losses to the Indian Railways. In such a situation, if there is a failure in supplies from the existing source, there would be no alternative to fall back upon. In case new suppliers are not developed, the country may have to import Rails to meet the increasing demand. This would result in loss of precious foreign exchange. Also, if Rails of required quality and quantity were not available in foreign countries at required time, the implementation of ambitious projects being undertaken by the Indian Railways would suffer.

The petitioners, therefore, requested that the amendment made to Rail Specification in June 2002 should be reviewed and specify hydrogen content in the rails to be achieved and not the process by which the hydrogen gas should be removed.

2.3 The Committee took up the representations for examination in accordance with Direction 95 of the Directions by the Speaker. Accordingly, the above representations were forwarded to the Ministry of Railways (Railway Board) on 11th December, 2007 requesting them to furnish their comments on the issues raised in the representations. In their response, the Ministry of Railways (Railway Board) *vide* their communication dated 17th December, 2007 submitted as follows:—

> "1.1 Indian Railway procures rail through M/s SAIL, a Government of India enterprise, through a set procedure framed by Ministry of Railways. The judicial Commission, which has gone into the details on the accident, had also recommended the improvement in the rail specifications by way of reduction of hydrogen content etc. Therefore, the specifications were upgraded.
>
> 1.2 At present, M/s. Steel Authority of India (SAIL), A Government of India enterprise, has been the only indigenous supplier of rails fulfilling the various norms of Indian Railway Specification. Based on the need of Indian Railways, Bhilai Steel Plant (BSP) has set up a plant for rolling of long rail with required investment and also up gradations, such as; Vacuum Arc Degassing, online USFD machine, Eddy current flaw detection system, RH degasser etc. were done by BSP. There is a continuous interaction for improvement, since 1998 December. In addition to this, several other projects like installation of de-sulphurisation plant, electromagnetic stirrer and online rail profile measurement system is also under progress for further improvement in quality and all of them are likely to be commissioned soon. M/s SAIL has also been very receptive to the request of Indian Railway for any improvement, even for a new product to meet the IR requirement.
>
> 1.3 As far as the rail pricing is concerned, Ministry of Railways have a Pricing Committee whose recommendations are examined and finalized at Board Level. No undue advantage is being given to M/s SAIL for the procurement of rail. However, the loss/gain cannot be assessed, being single buyer single supplier scenario. In this case supplier is a Government of India PSU."

2.4 Explaining about the need for making amendment in Rail Specifications in 2002, the Ministry stated as under:—

> "After the Khanna accident attributed to rail fracture due to high Hydrogen content in the rail, it was decided to put a system in place for reducing the Hydrogen content in the liquid steel at par with the best rail manufacturers in the world. RH degasser, is a proven and latest technology and is being used by all reputed rail manufacturer *e.g.* M/s VAE, Austria/ M/s CORUS U.K. As in case RH degasser, we are always getting Hydrogen content, less than 1.6 ppm and Indian Railway felt confident to achieve a lower Hydrogen content in molten metal, which is a critical safety parameter."

2.5 About the procedure of procurement of rails from private suppliers, the Ministry commented as under:—

> "There is no separate procedure for procurement of rail from private suppliers. However, in future if some of the private suppliers fulfil the norms/conditions of Indian Railway Specifications, Indian Railway may approve after getting their facility inspected by RDSO. Presently M/s SAIL is the only indigenous supplier, fulfilling the various norms of Indian Railways specifications. It is also worth mentioning that there exists a Memorandum of Understanding (MoU) between the Ministry of Railways and M/s SAIL, for supply in the entire required quantity of rail from them. However, the MoU is subject to annual review, with in the overall policy of Government of India. Hence, all the rails are being procured from them. In the last five years, all the rails have been procured from M/s SAIL only. Some quantities were received from M/s Corus U.K. Limited, U.K., during the period under consideration, against the orders placed in 1998, when M/s SAIL wasn't in quite sound position to meet the demand."

2.6 Regarding the mechanism adopted by the Ministry to encourage new suppliers for supply of rails, the Ministry submitted as under:—

> "For rails, an effort was made by inviting open tender in the year 1997, in which no acceptable offer was received. At present, rails are procured from M/s SAIL, an indigenous and the only supplier, who fulfil the requirement of Indian Railway specifications. However, for supply of rails, the Ministry of Railways has received a proposal from a private sector firm, which is under consideration. Any decision in the regard will only be taken after satisfactory evaluation of their quality standards, defined process control system involved, for high quality and reliability."

2.7 Explaining about the details of the future planning of Railways to cope up with the progressively increase in the axle-load and introduction of double-stacks trains on dedicated freight corridors, the Ministry stated as under:—

> "The available capacity with M/s SAIL has been found to be adequate in meeting the temporarily increased requirement of Indian Railway in meeting the old arrears of track renewal arising out of Special Railway Safety Fund (SRSF). As gathered, Bhilai Steel Plant of M/s SAIL has got an annual production capacity of one million tonne, out of which at present, Railway is procuring only to the tune of 7 lakh Metric Tonnes. M/s SAIL is understood to be planning addition of capacity too. Indian Railways may have to improve some special quality rails like Head Hardened rails to meet its requirement, till the facility is developed in India. This may be quite insignificant as compared to the total requirement of rails for Indian Railways."

2.8 Regarding the details of 'RH degassing' and 'Tank degassing' processes being used in Railways, the Ministry commented as under:—

> "Improvement in rail quality has always been a process of evolution and with the knowledge gained from worldwide practices the specification of rail is being continuously updated. Prior to 1999 Bhilai was not using any degassing

process, resulting in high hydrogen content in molten rail steel. Bhilai started using Vacuum Arc Degassing (VAD) which is quite similar to the vacuum tank degassing which was subsequently shifted to RH degassing from July, 2000 onwards which is considered to be a superior process *i.e.* consistently meeting the specifications.''

2.9 About the system being used in other countries, the Ministry replied as under:—

"The detail of process of control of hydrogen removal in manufacturing rails to the Railways in other countries is not maintained by Indian Railways. However, the superior process control in removing the hydrogen content of rails by way of RH degasser is a proper technology adopted by other reputed foreign rail manufacturers such as M/s VAE, Austria and M/s Corus, U.K."

2.10 As regards the decision taken to review the rail specifications in the meeting held in February, 2006, the Ministry informed as under:—

"It is mentioned that a special meeting of the Specification Committee, involving RDSO *i.e.* technical wing of Indian Railway, was convened on 24.2.2006 and a conscious decision was taken that RH degassing process is superior to a vacuum tank degassing process. It was a unanimous recommendation of the review committee for specification of rails. The revised specification was adopted by the Railways as per recommendation of the committee and approval of the competent authority.''

2.11 In reply to question as to whether the Government would review the amendments made in Railway Specification 2002, the Ministry responded as under:—

"A meeting of the specification committee was convened on 24.02.2006, in the changed scenario due to introduction of long rails, improvement in qualifying criteria tests etc. a conscious decision was taken that RH degassing process is superior to vacuum tank degassing process and there is no reason to review the amendment for hydrogen removal process issued in the year 2002 when the superior proven control (RH Degassing) is available with in indigenous supplier to meet the upgraded specification. The members of the Committee were unanimous in maintaining the emphasis on the process control (RH degasser) with the available experience of consistency in quality results of the rails and have been considered essential to meet the upgrades specifications.''

2.12 The Committee, took oral evidence of the representatives of the Ministry of Railways (Railway Board) on 18th December, 2007.

2.13 The Committee wanted to know if Railways could actually save a high amount as contended by the petitioners, then what were the difficulties if competition is allowed in procurement of Rails? At this, the witness, the Member Engineer, Railway Board, stated as under:—

"The Railways had placed orders for procurement of Rail from England in 1998. That was the requirement of that time because the rolling sixty kilograms, Rail, which is our Heaviest Rail Section, was not sufficient at that time. There was also crisis during the year 1998. Doubts were raised about the quality of

rails procured from Bhilai. Then, during December, 1998 an order was given that rails will not be procured from Bhilai by the time it improves it's purification. This was the reason behind non-procurement of rails from Bhilai for four and half months. Today the situation is different. Today possibility of imports are only for Head Harden Rail or for Special Rail and Technology for these are neither available at Bhilai nor any other in India. No one is ever planning to bring the technology.''

2.14 When asked about the justification for giving priority to Bhilai for procurement Rails without any competition, the witness stated as under:—

"During the last fifty years Bhilai has been the producer of Rails. Railways had invited companies in private sector to manufacture Rails during sixties. Only one company from Steel Industry had offered to supply but the company could not set up. Bhilai Steel Plant is a Central Government PSU. We have some advantage in process in from Bhilai because whenever we ask them for improvement of technical quality any inspection or equipment or wants any modification in orders or terms and conditions, they do accordingly. They are under Central Government and we are also under Central Government. This is based on mutual understanding. But we given them more profit, is certainly a issue for private sector because there is no competition. If there is a genuine competition, Bhilai Steel Plant may also reduce its price by Rs. 500/- per tonne there assumption is based on this basis.''

The witness added:

"…….But even then I want to say that when this MoU was prepared, the objective behind it was to support Bhilai Plant in which fifty-seventy thousand crores are being invested. Only by opening it for private competition, when other's material have been not tested , others have not provide their capacities and destroying the existing arrangement or import the rail in the process is not correct. Sir, I cite you an example. Pipavav Rail Company wanted to import Rail from China during the year 2000-2001. perhaps China could have supplied Rails cheaper by Rupees One Thousand per tonne at all time about it was the Government 's decision. Our decision since have been dealing the subject last seven years. I know everything regarding the subject. What action was taken, why an how MoU was prepared, what the discussion took place. S.L. Tripathi was the Minister for Steel that time. Railways is getting benefited from this arrangement. If we ask Private Sector the same thing, then it will take time in making investment decision. The company will search various things in foreign market but the relationship with Bhilai as a major customer and major supplier is excellent. It is useful to both of us. We have no problem in this regard. But demand for rail is increasing and if any one from private sector come forward, we may consider it. So, the chapter has not been closed.''

2.15 On being enquired as to whether any letter had been written to the Managing Director, Jindal Steels stating that their company could be included in the completion if the quality was good and the rates were proper, the witness stated as under:—

> "We wrote it to Jindals because Jindals had bought a second hand rolling mill from South Africa, but they have to install it. That time they had a big commitments that they will supply 120 meter long rails, which Bhilai could not supply. That time Bhilai had the capacity of manufacturing 78 meter rails and Bhilai have supplied 78 meter long rails to Railway on their demand after investing two hundred fifty crores and the plant had also supplied upto 260 meter long rails after welding them in the plant itself. We are satisfied with this. We have not compromised with the quality of reliable products required for the rail or in the strategy of extention of railway. A few technical requirements were to be fulfilled by the Jindal's and a dispute over it went on for many years but now they have assured to fulfil the same and are engaged in the process. It is under consideration to involve them in the competition. The decision is yet to be taken.''

2.16 The Committee wanted to know if Jindal Steels agreed to what Railways wanted and fulfil all the requirements, whether Railways might consider their participation in the competition? Replying to this, the witness stated as under:—

> "Definitely we may be considering the same. Hon'ble Minister for Railways has to take the final decision as MOU was approved at his level."

2.17 The Committee asked when there is a provision then why it was not reviewed? At this, the witness responded as under:—

> "It is also mentioned alongwith the provision that Railway will meet all its requirement from Bhilai. As there is increase in the demands of Railways we need to find a way out.''

2.18 The Committee pointed out that an impression had been created that Railways want to help a particular company and assurance given was not being fulfilled due to its adamant attitude? Replying to this, the witness submitted as under:—

> "I would like to say that it is not stubbornness. There was a technical requirement for which Jindal was not ready earlier but it is fully agreed to do it now, so we are considering to revise the MOU. It will be appropriate to talk about the matter once a decision is taken.''

2.19 When asked, by when the final decision will be taken in the matter, the witness stated as under:—

> "I would like to make request again as the matter has been pending not for the last ten days but for the two and half years. I also want to tell you that all the aspects are within the knowledge of Hon'ble Minister. He only knows what he wants. It is not possible for me to give commitment on his behalf.''

The witness further added:—

> "I will surely talk to the Hon'ble Minister as soon as he visits Rail Bhawan."

2.20 The Committee pointed out that in their written communication, the Ministry of Railways stated that installation of de-sulpherisation device in Bhilai Steel Plant would be necessary for the electromagnetic cistern and online rail profile measurement system and that work would be started at the earliest. That showed that even Bhilai Steel Plant did not have that device and the device was still to be installed. The Committee then wanted to know if that device was not available, how could Railways claim that the quality was good. At this, the witness stated as under:—

> "There was a deviation from Jindal's in the specifications. The device was of RHD Gasaries as such there was deviation in specifications. Besides electro Magnetic starter and online profile measurement are not as per the specifications. In this concern as the railway department enhance its knowledge they demand accordingly. But Bhilai Plant management invest Fund and install the device.''

2.21 When the Committee wanted to know as to why the Railways have delayed the competition in procurement of Rails, the witness stated as under:—

> "Sir, the reason for taking such a long time is that Jindals did not accept technical requirement. Jindal have accepted the technical requirement only some months ago.''

The witness also added:—

> "Their complete technical equipment requirements are to be installed. The testing process would follow then."

2.22 On being asked as to whether any date has been offered to Jindal Steels for the test, the witness replied as under:—

> "They have fixed the date that they will install the equipments during January-February. Later on, they will conduct trial, after that we will conduct testing.''

2.23 The Committee asked about the technical thing which the Ministry have asked M/s Jindal Steels to perform. At this the witness stated that RHD gasser is be installed by them. The witness further added that they have given their commitment for the same and that their equipments would be ready by January-February and after that they would conduct and later on they will invite them for inspection.

Observations/Recommendations

2.24 In their representation, the petitioners have alleged that Indian Railways are losing more than 500 crores of rupees annually as they are procuring Rails from only one supplier. According to the petitioners, the Indian Railways carried an amendment in the Rail specification in June 2002 and included the process of removing hydrogen as part of the Rail specifications. The petitioners contended that this was done in order to keep the monopoly of one party in supply of Rails. The petitioners have contended that no other country in the world has specified the process of hydrogen removal in its Rail specifications. According to the petitioners, the demand of Rails in the country is expected to increase substantially in the coming years due to construction of dedicated freight corridors and Golden Quadrilateral by

Indian Railways. There is also a large backlog of track renewal programme which also required a large quantity of Rails. But the petitioners have alleged that the Indian Railways are not encouraging new suppliers and are depending upon a lone supplier or otherwise on costly imports, as a result of which the Indian Railways are incurring heavy expenditure. The petitioners have contended that if there is any failure in supply from the existing source, there would be no alternative to fall back upon. Further, in case new suppliers are not developed, the country may have to import Rails to meet the increasing demand of Rails which means loss of precious foreign exchange. Further, if the rails of required quantity and quality are not available timely in foreign countries, the implementation of ambitious projects being undertaken by the Indian Railways should suffer.

2.25 The Committee note that the Indian Railways procures rails through M/s SAIL, a Government of India enterprise, through a set procedure framed by the Ministry of Railways. Bhilai Steel Plant of SAIL has been the producer of rails for the last fifty years. At present, SAIL, is the only indigenous supplier of rails fulfilling the various norms of Indian Railways specifications. Based on the need of Indian Railways, Bhilai Steel Plant (BSP) has set up a plant for rolling of long rail with required investment and also upgradations, such as; Vacuum Arc degassing, online USFD machine, Eddy current flaw detection system, RH degasser. There is a continuous interaction for improvement, since 1998 December. In addition to this, several other projects like installation of de-sulphurisation plant, electromagnetic stirrer and online rail profile measurement system its also under progress for further improvement in quality and all of them are likely to be commissioned soon. M/s. SAIL has also been very receptive to the request of Indian Railways for any improvement, even for a new product to meet the IR requirement. As far as the rail pricing is concerned, Ministry of Railways have a Pricing Committee whose recommendations are examined and finalized at board Level. No undue advantage is being given to M/s. SAIL for the procurement of rail. However, the loss/gain connot be assessed, being single buyer single supplier scenario.

2.26 The Committee also note that after the Khanna accident attributed to rail fracture due to high Hydrogen content in the rail, it was decided to put a system in place for reducing the Hydrogen content in the liquid steel at par with the best rail manufacturers in the world. RH degasser is a proven and latest technology and is being used by all reputed rail manufacturer e.g. M/s. VAE, Austria / M/s. CORUS U.K. As in case of RH degasser, Indian Railways are always getting Hydrogen content, less than 1.6 ppm and Indian Railways felt confident to achieve a lower Hydrogen content in molten metal, which is a critical safety parameter.

2.27 It was also mentioned to the Committee that there exists a Memorandum of Understanding (MOU) between the Ministry of Railways and M/s. SAIL, for supplying the entire required quantity of rails from them. However, the MOU is subject to annual review, with in the overall policy of Government of India. Hence, all the rails are being procured from them. In the last five years, all the rails have been procured from M/s. SAIL only. Some quantities were received from M/s. Corus U.K. Limited, U.K. during the period under consideration, against the orders placed in 1998, when

M/s. SAIL was not in quite sound position to meet the demand and doubts were raised about the quality of rails procured from Bhilai. Then, during December, 1998 an order was given that rails will not be procured from Bhilai till the time it improve its purification. Efforts were also made by inviting open tender in the year 1997, in which no acceptable offer was received. The Committee were informed that there is a no separate procedure for Procurement of rail from private supplier. However, for supply of rails, the Ministry of Railways have received a proposal from a private sector firm, which is under consideration. A decision in this regard will only be taken after satisfactory evaluation of their quality standards, defined process control system involved for high quality and reliability.

2.28 Prior to 1999, Bhilai was not using any degassing process, resulting in high hydrogen content in molten rail steel, Bhilai started using Vacuum Arc Degassing (VAD) which is quite similar to the vacuum tank degassing which was subsequently shifted to RH degassing from July, 2000 onwards which is considered to be a superior process *i.e.* consistently meeting the specifications. This is a proper technology adopted by other reputed foreign rail manufacturers such as M/s. VAE, Austria and M/s. Corus, U.K. A special meeting of the Specification Committee, involving RDSO *i.e.* technical wing of Indian Railway, was convened on 24.2.2006 and a conscious decision was taken that RH degassing process is superior to a vacuum tank degassing process. There was no reason to review the amendment for hydrogen removal process issued in the year 2002. It was a unanimous recommendation of the review committee for specification of rails. The revised specification was adopted by the Railways as per recommendation of the committee and approval of the competent authority.

2.29 According to the Ministry, the available capacity with M/s SAIL has been found to be adequate in meeting the temporarily increased requirement of Indian Railways in meeting the old arrears of track renewal arising out of Special Railway Safety Fund (SRSF). Bhilai Steel Plant of M/s. SAIL has got an annual production capacity of one million ton, out of which at present, Railway is procuring only to the tune of 7 lakh Metric Tonnes. M/s. SAIL is understood to be planning addition of capacity too. Indian Railways may have to import some special quality rails like Head Hardened rails to meet its requirement, till the facility is developed in India. This may be quite insignificant as compared to the total requirement of rails for Indian Railways.

2.30 The Committee note with satisfaction that M/s. SAIL has introduced adequate capacity to meet the existing requirement of Indian Railways and its foreseable demand, The Committee are, however, concerned that Indian Railways are procuring rails from one Company only *i.e.* M/s. SAIL and are fully dependant on them which may, at times may land the Indian Railways in avoidable crisis, if, for one reason or the other, the supply of Rails is not maintained by the Company, against the requisite demand of the Indian Railways. There is no doubt that the demand of Rails in the country will progressively increase in view of the expansion programme or new projects undertaken by the Indian Railways. The Committee feel that sincere efforts should have been

msade to diversify the sources of suppliers or to encourage and involve new suppliers both from Public Sector and Private Sector to meet the regular demand of the Indian Railways subject to all the quality specifications being met.

2.31 The Committee regret to note that the request of one of the suppliers is pending for quite some time without any decision. The Committee feel that there could not be any objection if other Indian Companies, be they in public sector or in private sector, are ready to supply the rails and ready to compete and accept the quality and the technical requirements or other terms and conditions of Indian Railways, particularly when the demand of Railways is increasing or set to increase in the near future. The Committee are of the view that Indian Railways should diversify its resources for procurement of Rails and for other items as well. The competition amongst various suppliers would not only bring down the prices of the product but also improvesits quality which is always beneficial for the prospective customers or the end users. The Committee, therefore, recommend that existing system of procurement of rails for Indian Railways should be reviewed to meet the demand of the Indian Railways without compromising the quality needed for the purpose. The Committee would like to be apprised of the action taken in the matter.

NEW DELHI;
18 *March*, 2008
28 *Phalguna*, 1929 *(Saka)*

PRABHUNATH SINGH,
Chairman,
Committee on Petitions.

MINUTES OF THE TWENTY-THIRD SITTING OF THE COMMITTEE ON PETITIONS (FOURTEENTH LOK SABHA)

The Committee on Petitions sat on Monday, 12th September, 2005 from 14.00 hours to 15.45 hours in Committee Room No. F (G074), Parliament Library Building, New Delhi.

PRESENT

Shri Prabhunath Singh — *Chairman*

MEMBERS

2. Dr. M. Jagannath
3. Shri Suresh Kurup
4. Shri Dharmendra Pradhan
5. Shri Vijoy Krishna

SECRETARIAT

1. Shri P. Sreedharan — *Joint Secretary*
2. Shri A.K. Singh — *Director*
3. Shri U.B.S. Negi — *Under Secretary*
4. Shri M.S. Jaspal — *Assistant Director*
5. Smt. Jagriti Tewatia — *Committee Officer*

WITNESSES

** ** **

Representatives of Ministry of Agriculture (Department of Agricultural Research & Education)

1.	Dr. Mangala Rai	—	Secretary (DARE) & Director General (ICAR)
2.	Smt. Sushama Nath	—	Addl. Secretary (DARE) & Secretary (ICAR)
3.	Shri J. Ravi	—	Deputy Secretary (Per.)

** ** **

6. Thereafter, the Chairman welcomed the representatives of the Ministry of Agriculture (Department of Agricultural Research & Education) and drew their attention to Direction 55(1) of the Directions by the Speaker regarding confidentiality of the proceedings.

7. The Committee then took evidence on the representation complaining about irregularities in service conditions of employees working in Directorate of Rice Research, Hyderabad.

8. At the outset, the witness gave a brief account of the matter and clarified the position as regards to the Memorandum given to one of the Scientist working in the Directorate of Rice Research.

9. The Committee directed the witness to send written replies on points etc. which were not supplied or readily available with them and thereafter issues will be deliberated at their next sitting.

The Committee then adjourned.

MINUTES OF THE SEVENTY-SECOND SITTING OF THE COMMITTEE ON PETITIONS (FOURTEENTH LOK SABHA)

The Committee on Petitions sat on Tuesday, 18th December, 2007 from 15.00 hours to 17.30 hours in Committee Room No. 62, First Floor, Parliament House, New Delhi.

PRESENT

Shri Prabhunath Singh — *Chairman*

MEMBERS

2. Shri Mohan Jena
3. Adv. Suresh Kurup
4. Shri Dharmendra Pradhan
5. Kunwar Jitin Prasad
6. Shri Kishan Singh Sangwan
7. Shri Paras Nath Yadav

SECRETARIAT

1. Shri A.K. Singh — *Director*
2. Shri U.B.S. Negi — *Deputy Secretary*
3. Shri H.R. Kamboj — *Deputy Secretary-II*
4. Shri V.P. Gupta — *Under Secretary*

WITNESSES

Ministry of Railways

1. Shri S.K. Vij — Member Engineering, Railway Board
2. Shri S.K. Agarwal — Executive Director/Track (P)
3. Shri P. Guha — Executive Director/Coaching
4. Shri Ashok Kumar — Executive Director/Tourism & Catering
5. Shri Ashok Kumar — Under Secretary/Railway Board
6. Shri Pankaj Malviya — Additional Member (Tourism & Catering) Railway Board.

** ** **

2. At the outset, the Committee noted the absence of the Chairman, Railway Board from the sitting of the Committee. On being inquired, the officials of the Ministry of

Railways could not give satisfactory explanation for his absence. It was brought to the notice of the Ministry that as per rule it was necessary for the Chairman, Railway Board to take permission in writing for his absence from the sitting of the Committee but no communication as such was received from the Chairman, Railway Board in that regard. The Committee, therefore, expressed their strong displeasure over the absence of the Chairman, Railway Board from the sitting of the Committee without any notice and considered it as a deliberate attempt on his part to ignore the Committee. The Committee also wanted the Ministry that such incident should not be repeated in future as otherwise the matter would be referred to the Privileges Committee.

3. Thereafter, Chairman welcomed the representatives of the Ministry of Railways and drew their attention to Direction 55(1) of the Directions by the Speaker, Lok Sabha regarding confidentiality of the proceedings. The Chairman also drew attention to Direction 95 which clearly stipulates that the Committee shall also meet as often as necessary to consider representations, letters, telegrams from various individuals, associations etc. which are not covered by the rules relating to petitions and give directions for their disposals.

4. Thereafter, the Committee took oral evidence of the representatives of the Ministry of Railways (Railway Board) on the following representations:—

(i) Representation from Shri R.K. Nain, advocate form Sonipat and forwarded by Shri Kishan Singh Sangwan, M.P. regarding construction of Railway line between Jind and Sonipat.

(ii) Representation received from Vinod Kumar Soni, Maharajganj, Bihar regarding introduction of a diesel train with 5 bogies in place of DMU train running between Chhapra-Dharaunda-Maharajganj-Siwan;

(iii) Representation received from Shri Madhu Kotian, Mumbai and forwarded by Shri Harisingh Rathod, MP requesting for allocation of new rakes for development of Thane-Vasi section of Mumbai Suburban System;

(iv) Representation received from Shri Amit S. Mittal, Mumbai regarding exemption of the curio stalls from the Catering Policy and from IRCTC; and

(v) Representations received from Shri Ananta Nayak, MP and Shri Jual Oram, MP regarding system of procurement of 'Rails' by Indian Railways.

** ** **

V. Representations received from Shri Ananta Nayak, MP and Shri Jual Oram, MP regarding system of procurement of 'Rails' by Indian Railways.

The following issues/points were discussed by the Committee:—

(i) Procedure regarding procurement of rails by Railways from various suppliers; and

(ii) Need to bring healthy competition in procurement of rails to get better quality of rails.

The Committee directed the witnesses to send the replies on the points which were not readily available with them during the evidence.

The Committee asked the witnesses to send the replies on the points which were not readily available with them during the evidence.

** ** **

6. A copy of the verbatim proceedings of the sitting of the Committee was kept on record.

The witnesses then withdrew.

The Committee then adjourned.

MINUTES OF THE SEVENTY- NINTH SITTING OF THE COMMITTEE ON PETITIONS (FOURTEENTH LOK SABHA)

The Committee on Petitions sat on Tuesday, the 18th March, 2008 from 15.00 hours to 15.30 hours in Chairman's Room No. 45 (II) Ground Floor, Parliament House, New Delhi.

PRESENT

Shri Prabhunath Singh — *Chairman*

MEMBERS

2. Shri Shingada Damodar Barku
3. Shri N.S.V. Chitthan
4. Shri Mohan Jena
5. Shri Wangyuh W. Konyak
6. Adv. Suresh Kurup
7. Shri Dharmendra Pradhan
8. Shri Kishan Singh Sangwan
9. Shri Mansukhbhai Dhanjibhai Vasava

SECRETARIAT

1. Shri P.K. Grover — *Joint Secretary*
2. Shri A.K. Singh — *Director*
3. Shri U.B.S. Negi — *Deputy Secretary*
4. Shri H.R. Kamboj — *Deputy Secretary-II*
5. Shri V.P. Gupta — *Under Secretary*
6. Smt. Jagriti Tewatia — *Committee Officer*

2. The Committee considered and adopted the following reports of the Committee with slight modifications:—

(1) Thirty-Seventh Report pertaining to Ministry of Chemicals and Fertilizers (Department of Chemicals and Petrochemicals) on the Petition from Shri Basudeb Acharia, MP requesting for payment of additional ex-gratia to 196 employees of IDPL in Central Dearness Allowance (CDA) scale at par with other employees.

(2) Thirty-Eighth Report pertaining to Ministries of Agriculture (Department of Agricultural Research and Education) and Railways

(3) Thirty- Ninth Report pertaining to Ministries of Coal and Defence (Defence, Research and Development Organization)

(4) Fortieth Report pertaining to Ministry of Petroleum and Natural Gas.

3. The Committee also authorised the Chairman to finalise and present the Reports to the House.

The Committee then adjourned.

GMGIPMRND—2239LS—11-7-2008.